

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

IN RE TRICOR DIRECT PURCHASER	)	
ANTITRUST LITIGATION	)	C.A. No. 05-340 (KAJ)
	)	(consolidated)
THIS DOCUMENT RELATES TO:	)	
ALL ACTIONS	)	
<hr/>		
IN RE INDIRECT PURCHASER	)	C. A. 05-360 (KAJ)
ANTITRUST LITIGATION	)	(consolidated)
	)	
THIS DOCUMENT RELATES TO:	)	
ALL ACTIONS	)	

**NOTICE OF DEPOSITION UNDER FED. R. CIV. P. 30(b)(6)  
OF RESEARCH BY DESIGN, LLC**

**TO ALL COUNSEL ON ATTACHED SERVICE LIST:**

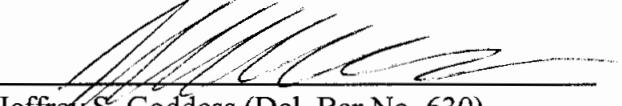
PLEASE TAKE NOTICE that, pursuant to the provisions of Rule 30(b)(6) of the Federal Rules of Civil Procedure, Direct Purchaser Class Plaintiffs will take the deposition upon oral examination of Research By Design, LLC, commencing on October 10, 2006, beginning at 9:00 a.m., and continuing from day to day thereafter until completed, at the offices of Berger & Montague, P.C., 1622 Locust Street, Philadelphia, PA 19103. The deposition will be taken before a notary public or other officer duly authorized to administer oaths and take testimony, and will be recorded by stenographic means and may be audiotaped and/or videotaped.

In accordance with Rule 30(b)(6) of the Federal Rules of Civil Procedure, Research By Design, LLC is hereby notified of its obligation to designate one or more officer, director, or

managing agent, or other person who consents to testify on behalf of Research By Design, LLC with respect to the topics set forth on the attached Appendix "A".

Dated: September 19, 2006

By:

  
Jeffrey S. Goddess (Del. Bar No. 630)  
ROSENTHAL, MONHAIT & GODDESS, P.A.  
919 Market Street, Suite 1401  
P.O. Box 1070  
Wilmington, Delaware 19899-1070  
(302) 656-4433  
[jgoddess@rmgglaw.com](mailto:jgoddess@rmgglaw.com)

Liaison Counsel for Direct Purchaser Class

## APPENDIX A

Research By Design is requested to designate one or more officers, directors or managing agents, or other persons who consent to testify on its behalf who have knowledge of the matters set forth herein.

### **I. DEFINITIONS**

1. The term "Abbott" means Abbot Laboratories, or any of its subsidiaries, divisions, subdivisions, affiliates, predecessor and successor entities, partners, officers, directors, employees, agents, legal counsel, or any other person acting on its behalf.

2. The term "Fournier" means Fournier Industrie et Santé, and/or Laboratories Fournier S.A., or any of their subsidiaries, divisions, subdivisions, affiliates, predecessor and successor entities, partners, officers, directors, employees, agents, legal counsel, or any other person acting on their behalf.

3. The term "Tricor" means any and all drugs or pharmaceutical products which are, or have in the past been, marketed, sold or labeled under the trademark or name "TriCor" (or any variant thereof), regardless of the form, formulation, strength, dosage, dissolution rate or package size of such drugs, including but not limited to the pharmaceutical products described in the New Drug Applications Nos. NDA 19-304, NDA 21-203, and NDA 21-656 and pharmaceutical products marketed by Abbott/Fournier as Tricor in 67mg, 134mg, 200mg, 54mg, 160mg, 48mg, and 145mg strengths.

4. The phrase "fenofibrate product" or the term "fenofibrate" means any and all products, drugs or pharmaceuticals which contain the chemical or compound fenofibrate as an active ingredient or product, including, but not limited to, Tricor.

5. The term "document" means any written, printed, recorded, digital, electronic and/or video matter and/or tangible thing upon which any words, phrases, numbers, data and/or images are affixed or conveyed, including but not limited to any item within the scope of Rule 34 of the Federal Rules of Civil Procedure. The term "document" includes, but is not limited to, any writing, report, memorandum, file, computer file, computer-stored data or databases in computer-readable format, computer drive, home computer contents, personal computer contents, floppy disk, zip disk, printout, communications, computer transmission, e-mail, correspondence, electronic transmission, word processing file, spreadsheet, spreadsheet program file, calculation, database, database entries, database queries, database query results, mainframe computer file, computerized spreadsheet, analysis, outline, pro forma, forecast, white paper, projection, market study, marketing plan, tactical plan, long-range plan, strategic forecast, plan of action, pricing study, budget, presentation, slide, slide deck, Powerpoint presentation, proposal, record, draft, memorialization, computerized memorialization, personal digital assistant file, message, book, survey, research, background information, talking points, list, contract, agreement, purchase order, invoice, receipt, shipping paper, catalog, brochure, manual, publication, policy statement, promotional or advertising literature or materials, credit memos or memoranda, claim form, production record, inventory record, account, letter, side letter, letter of commitment, journal, profit and loss statement, income and expense sheet, statement of financial condition, audit report, organizational chart, flow chart, addendum, check, docket sheet, brief, court filing, pleading, transcript, affidavit, deposition, discovery request, discovery response, log, calendar, list, journal, pamphlet, abstract, computation, tabulation, bill, statement, invoice, schedule, exhibit, attachment, photostat, electronic transmission, image, network communications and

transmissions, satellite network communications, study, telegram, telex, agenda, minutes, bulletin, instruction, literature, memorandum of conversations, notes, notebook, diary, data sheet, work sheet, recording, tape, videotape, audiotape, internal or interoffice communication, drawing, table, diagram, graph, index, chart, telephone record, photograph, phonographic record, written memorialization of oral communication, and/or other data compilation of any other written, recorded, transcribed, punched, taped, filed and/or other graphic matter including any draft of the foregoing items upon which any notation, work, figure or form is recorded or has been made which does not appear on the original, or as to whose existence, either past or present, the responding party has any knowledge or information.

6. The phrase "relating to" and "relates to" includes reflecting, constituting, evidencing, referring to, concerning, involving, dealing with, or bearing on (whether legally, factually, or otherwise), in whole or in part.

7. The terms "and/or", "or" and "and" are used inclusively, not exclusively.

8. The term "subpeona duces decum" means the subpoena duces tecum dated September 15, 2006 served by Direct Purchaser Plaintiffs through the Eastern District of Pennsylvania on Research By Design in the case *In re: Tricor Direct Purchaser Antitrust Litig.*, 05-cv-340 (KAJ) (D. Del).

9. The term "Research By Design" means Research By Design, LLC and/or any of its corporate parents, subsidiaries, affiliates, divisions, subdivisions, general partners, members, officers, directors, employees, agents, or any person acting on their behalf.

## II. TOPICS

1. The source, purpose and nature of any and all documents produced by Research

By Design pursuant to the subpoena duces tecum.

2. Communications with Abbott/Fournier relating to any work or services performed by Research By Design in connection with Tricor (including but not limited to any dosage strength or formulation of Tricor marketed by Abbott/Fourier, e.g., 67/134/200mg, 54/148mg, and 48/145mg (the "No Food Effect" or "NFE" formulation)), or any fenofibrate product.

3. Where any and all documents produced by Research By Design pursuant to the subpoena duces tecum are located, kept or maintained in the normal course of business.

4. Any facts known to Research By Design relating to the creation of any and all documents produced by Research By Design pursuant to the subpoena duces tecum, including but not limited to, whether such documents were created in the normal course of business.

**CERTIFICATE OF SERVICE**

I hereby certify that on September 19, 2006 I electronically filed the foregoing document using CM/ECF, which will send notification of such filing to all registered participants, including:

Josy W. Ingersoll, Esquire  
John W. Shaw, Esquire  
Karen Keller, Esquire  
Young Conaway Stargatt & Taylor  
The Brandywine Building  
1000 West Street, 17th Floor  
P. O. Box 391  
Wilmington, DE 19899-0391

Frederick L. Cottrell, III, Esquire  
Anne Shea Gaza, Esquire  
Richards Layton & Finger  
One Rodney Square  
920 North King Street  
Wilmington, DE 19801

Pamela S. Tikellis, Esquire  
Robert J. Kriner, Jr., Esquire  
A. Zachary Naylor, Esquire  
Chimicles & Tikellis ILP  
One Rodney Square  
P. O. Box 1035  
Wilmington, DE 19899

Elizabeth M. McGeever, Esquire  
Prickett Jones Elliott, P.A.  
1310 King Street  
P. O. Box 1328  
Wilmington, DE 19899

Mary B. Graham, Esquire  
Morris Nichols Arsh & Tunnell  
1201 North Market Street  
P. O. Box 1347  
Wilmington, DE 19899

Mary B. Matterer, Esquire  
Morris James Hitchens & Williams  
222 Delaware Avenue  
10th Floor  
P. O. Box 2306  
Wilmington, DE 19899

Jonathan L. Parshall, Esquire  
Murphy Spadaro & Landon  
1011 Centre Road  
Suite 210  
Wilmington, DE 19801

Michael I. Silverman, Esquire  
Lynn A. Iannone, Esquire  
Silverman & McDonald  
1010 N. Bancroft Parkway #22  
Wilmington, DE 19805

Patrick Francis Morris, Esquire  
Morris & Morris  
1105 North Market Street  
Suite 803  
Wilmington, DE 19801

I hereby certify that on September 19, 2006 I sent by electronic mail the foregoing document to the following non-registered participants:

REPRESENTING DIRECT PURCHASER CLASS      Bruce E. Gerstein  
(C.A. No. 05-340):      [bgerstein@garwingerstein.com](mailto:bgerstein@garwingerstein.com)

Barry S. Taus  
[btaus@garwingerstein.com](mailto:btaus@garwingerstein.com)

Adam M. Steinfeld  
[asteinfeld@garwingerstein.com](mailto:asteinfeld@garwingerstein.com)

Rimma Neman  
[rnenman@garwingerstein.com](mailto:rnenman@garwingerstein.com)

Daniel Berger  
[danberger@bm.net](mailto:danberger@bm.net)

Eric L. Cramer  
[ecramer@bm.net](mailto:ecramer@bm.net)

Peter Kohn  
[pkohn@bm.net](mailto:pkohn@bm.net)

Neill W. Clark  
[nclark@bm.net](mailto:nclark@bm.net)

Linda P. Nussbaum  
[lnussbaum@cmht.com](mailto:lnussbaum@cmht.com)

Steig D. Olson  
[solson@cmht.com](mailto:solson@cmht.com)

David P. Germaine  
[dgermaine@daarvanek.com](mailto:dgermaine@daarvanek.com)

Joseph Vanek  
[jvanek@daarvanek.com](mailto:jvanek@daarvanek.com)

Stuart Des Roches  
[stuart@odrlaw.com](mailto:stuart@odrlaw.com)

Andrew Kelly  
[akelly@odrlaw.com](mailto:akelly@odrlaw.com)

Adelaida Ferchmin  
[aferchmin@odrlaw.com](mailto:aferchmin@odrlaw.com)

David P. Smith  
[dpsmith@psflp.com](mailto:dpsmith@psflp.com)

Russell A. Chorush  
[rchorush@hpcllp.com](mailto:rchorush@hpcllp.com)

Michael F. Heim  
[mheim@hpcllp.com](mailto:mheim@hpcllp.com)

REPRESENTING WALGREEN, ECKERD,  
KROGER, MAXI, CVS, RITE AID  
(C.A. No. 05-340):

Elizabeth M. McGeever  
[emmcgeever@prickett.com](mailto:emmcgeever@prickett.com)

Scott E. Perwin  
[sperwin@kennynachwalter.com](mailto:sperwin@kennynachwalter.com)

Lauren Ravkind  
[lravkind@kennynachwalter.com](mailto:lravkind@kennynachwalter.com)

Joseph T. Lukens  
[jlukens@hangley.com](mailto:jlukens@hangley.com)

REPRESENTING PACIFICARE  
(C.A. No. 05-340):

Jonathan L. Parshall  
[jonp@msllaw.com](mailto:jonp@msllaw.com)

William Christopher Carmody  
[bcarmody@susmangodfrey.com](mailto:bcarmody@susmangodfrey.com)

John Turner  
[jturner@susmangodfrey.com](mailto:jturner@susmangodfrey.com)

Shawn Rabin  
[srabin@susmangodfrey.com](mailto:srabin@susmangodfrey.com)

Justin Nelson  
[jnelson@susmangodfrey.com](mailto:jnelson@susmangodfrey.com)

Ken Zylstra  
[kzylstra@sbclasslaw.com](mailto:kzylstra@sbclasslaw.com)

Lyle Stamps  
[lstamps@sbclasslaw.com](mailto:lstamps@sbclasslaw.com)

Steve Connolly  
[sconnolly@sbclasslaw.com](mailto:sconnolly@sbclasslaw.com)

Casey Murphy  
[cmurphy@sbclasslaw.com](mailto:cmurphy@sbclasslaw.com)

Mark Sandman  
[mms@rawlingsandassociates.com](mailto:mms@rawlingsandassociates.com)

Jeffrey Swann  
[js5@rawlingsandassociates.com](mailto:js5@rawlingsandassociates.com)

REPRESENTING IMPAX  
LABORATORIES (C.A. No. 03-120)

Mary Matterer  
[mmatterer@morrisjames.com](mailto:mmatterer@morrisjames.com)

John C. Vetter  
[jvetter@kenyon.com](mailto:jvetter@kenyon.com)

Asim Bhansali  
[abhangali@kvn.com](mailto:abhangali@kvn.com)

REPRESENTING INDIRECT PARTY  
PLAINTIFFS (C.A. No. 05-360):

Pamela S. Tikellis  
Thomas M. Sobol  
Patrick E. Cafferty  
Jeffery L. Kodroff

Bernard J. Persky  
Michael Gottsch  
A. Zachary Naylor  
Robert Davis  
Brian Clobes  
Michael Tarringer  
Tim Fraser  
David Nalven  
Greg Matthews  
Christopher McDonald  
Kellie Safar  
Ted Lieverman  
Pat Howard  
**tricor@chimicles.com**

Michael I. Silverman  
[mike@silverman-mcdonald.psemail.com](mailto:mike@silverman-mcdonald.psemail.com)

Lynn A. Iannone  
[lynn@silverman-mcdonald.psemail.com](mailto:lynn@silverman-mcdonald.psemail.com)

Patrick Francis Morris  
**pmorris@morrisandmorrislaw.com**

REPRESENTING TEVA  
PHARMACEUTICALS (C.A. No. 02-1512):

Josy W. Ingersoll  
Bruce M. Gagala  
Karen E. Keller  
Christopher T. Holding  
Ken Cohen  
Elaine Blais  
**tricor@yest.com**

REPRESENTING ABBOTT (ALL CASES):

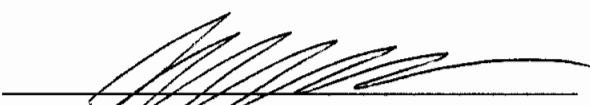
Mary B. Graham  
**tricor@mnat.com**

William F. Cavanaugh  
**wfcavanaugh@pbwt.com**

Chad J. Peterman  
**cjpeterman@pbwt.com**

REPRESENTING FOURNIER (ALL CASES):

Frederick L. Cottrell, III  
Anne Shea Gaza  
Steven S. Sunshine  
Matthew P. Hendrickson  
Bradley J. Demuth  
Maggie DiMoscato  
Timothy C. Bickham  
[tricor@rlf.com](mailto:tricor@rlf.com)



---

Jeffrey S. Goddess (Del. Bar No. 630)  
Jessica Zeldin (Del. Bar No. 3558)  
Rosenthal, Monhait & Goddess, P.A.  
Suite 1401, 919 Market Street  
P. O. Box 1070  
Wilmington, DE 19899-1070  
(302) 656-4433  
[jgoddess@rmgglaw.com](mailto:jgoddess@rmgglaw.com)  
[jzeldin@rmgglaw.com](mailto:jzeldin@rmgglaw.com)